

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

August 28, 2001

OFFICE OF
MANAGING DIRECTOR

J. Dominic Monahan
Luvaas Cobb Richards & Fraser, P.C.
777 High Street, Suite 300
Eugene, Oregon 97401-2787

*No action
necessary*
86-285

RE: Station KTVH(TV), Helena, Montana
Request for Refund of Application Fee
Fee Control No. 0008318165563006

Dear Mr. Monahan:

This is in response to your request for refund of the \$725.00 fee filed in connection with the application submitted by Beartooth Communications Company on August 28, 2000 for minor modification of the facilities of its Station KTVH(TV), Helena, Montana. You assert that Beartooth requested the withdrawal of this application on May 31, 2001. Under these circumstances, you contend that a refund of the January 22, 1999 filing fee is warranted.


We have fully considered all of your contentions. The fee requirement was established by the Schedule of Fees contained in the Omnibus Budget Act of 1989, Pub. L. No. 101-239, 103 Stat. 2106. See Conference Report To Accompany H.R. No. 386, 101st Cong., 1st Sess. 20-28 (1989); reprinted in the Congressional Record of Nov. 21, 1989 at page H9333 (Conference Report). Congress determined that the fees "represent a fair approximation of how the Commission's costs should be distributed." Conference Report at 433.

The Commission's rules do not provide for refund of a filing fee upon withdrawal of the underlying application. Further, the Commission clearly incurred processing costs associated with the application and, moreover, has stated that its "processing costs were but one factor that resulted in the legislated fees." See *Establishment of a Fee Collection Program To Implement the Provisions of the Consolidated Omnibus Budget Act of 1985*, 2 FCC Rcd 947, 949 (1987). In addition, the Commission has explicitly stated that a refund will not be granted once a filing has cleared the fee review process, except in certain circumstances enumerated in Section 1.1113 of the Commission's rules. 47 C.F.R. § 1.1113. In the case of Beartooth, however, Section 1.1113 is inapplicable because Beartooth voluntarily withdrew its application and because it has not made a showing of extraordinary and compelling circumstances warranting a waiver of the filing fee. Therefore, your request is denied.

If you have any questions concerning this letter, please call the Revenue & Receivable Operation Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark A. Reger', with a large, stylized initial 'M'.

 Mark A. Reger
Chief Financial Officer

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

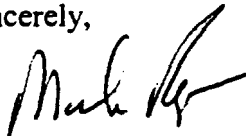
June 21, 2001

J. Dominic Monahan
Luvaas Cobb Richards
& Fraser, P.C.
Attorneys at Law
777 High Street
Suite 300
Eugene, Oregon 97401-2787

Dear Sir:

This letter is acknowledging receipt of your letter dated June 5, 2001, on behalf of Beartooth Communications Company. Within 30 days of this letter we will mail you either a resolution to your item or a letter telling you when you can expect a resolution. If you have any questions concerning this letter please call the Office of the Chief Financial Officer at (202) 418-1925.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Reger", with a stylized flourish at the end.

Mark Reger
Chief Financial Officer

000831 816556300 ~~000831 65563~~

RALPH F. COBB
JOE B. RICHARDS
J. DOMINIC MONAHAN†
VARNER JAY JOHNS III
LOUIS L. KURTZ
JOEL S. DEVORE

† Also Member of District
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DONALD E. JOHNSON
JAMES W. KEMPER
DAVID A. JACOBS
BEIJING WANG
WENDY L. LAING

ROBERT H. FRASER, Of Counsel

June 5, 2001

Office, Managing Director
Federal Communications Commission
The Portals/445 Twelfth Street, S.W.
Washington, D.C. 20554

RE: Station KTVH(TV), Helena, Montana

Dear Sir or Madam:

On May 31, 2001, Beartooth Communications Company ("Beartooth"), the licensee of Station KTVH(TV), Helena, Montana [Facility No. 5290], requested the withdrawal of its minor modification of its facilities (*see* BPCT-20000830AJG).

Accordingly, Beartooth respectfully submits this request for a refund of its filing fee in the amount of \$725 which was submitted on August 28, 2001 with that application. Attached hereto is a copy of the FCC Form 159 as filed, together with a copy of a check drawn on the Pioneer Citizens Bank of NV in the amount of \$725, dated August 24, 2000.

An extra copy of this transmittal letter is enclosed, as well as a pre-addressed, stamped envelope. Please confirm your receipt of the filing of this application withdrawal by date stamping the extra copy of this transmittal letter and returning it to the undersigned counsel.

Should additional information be desired concerning this application withdrawal, please contact the undersigned counsel.

BEARTOOTH COMMUNICATIONS COMPANY


J. Dominic Monahan, Its Counsel

JDM/nlk

Enclosures

cc: Frank Haynes
Ralph Toddre

READ INSTRUCTIONS CAREFULLY
BEFORE PROCEEDING

FEDERAL COMMUNICATIONS COMMISSION

APPROVED BY OMB 3060-0589

REMITTANCE ADVICE

1) LOCKBOX # 358165

PAGE NO 1 OF 1

SPECIAL USE

FCC USE ONLY

SECTION A - PAYER INFORMATION

(2) PAYER NAME (if paying by credit card, enter name exactly as it appears on your card)

Beartooth Communications Company

(3) TOTAL AMOUNT PAID (dollars and cents)

\$ 725.00

(4) STREET ADDRESS LINE NO 1

1500 Foremaster Lane

(5) STREET ADDRESS LINE NO 2

(6) CITY

Las Vegas

(7) STATE

NV

(8) ZIP CODE

89101

(9) DAYTIME TELEPHONE NUMBER (include area code)

(702) 642-3333

(10) COUNTRY CODE (if not in U.S.A.)

IF PAYER NAME AND THE APPLICANT NAME ARE DIFFERENT, COMPLETE SECTION B
IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C)

SECTION B - APPLICANT INFORMATION

(11) APPLICANT NAME (if paying by credit card, enter name exactly as it appears on your card)

(12) STREET ADDRESS LINE NO 1

(13) STREET ADDRESS LINE NO 2

(14) CITY

(15) STATE

(16) ZIP CODE

(17) DAYTIME TELEPHONE NUMBER (include area code)

(18) COUNTRY CODE (if not in U.S.A.)

COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEETS (FORM 159-C)

SECTION C - PAYMENT INFORMATION

(19A) FCC CALL SIGN/OTHER ID

KTVH

(20A) PAYMENT TYPE CODE (PTC)

M P T

(21A) QUANTITY

1

(22A) FEE DUE FOR (PTC) IN BLOCK 20A

\$ 725.00

FCC USE ONLY

(23A) FCC CODE 1

(24A) FCC CODE 2

(19B) FCC CALL SIGN/OTHER ID

(20B) PAYMENT TYPE CODE (PTC)

(21B) QUANTITY

(22B) FEE DUE FOR (PTC) IN BLOCK 20B

FCC USE ONLY

(23B) FCC CODE 1

(24B) FCC CODE 2

(19C) FCC CALL SIGN/OTHER ID

(20C) PAYMENT TYPE CODE (PTC)

(21C) QUANTITY

(22C) FEE DUE FOR (PTC) IN BLOCK 20C

FCC USE ONLY

(23C) FCC CODE 1

(24C) FCC CODE 2

(19D) FCC CALL SIGN/OTHER ID

(20D) PAYMENT TYPE CODE (PTC)

(21D) QUANTITY

(22D) FEE DUE FOR (PTC) IN BLOCK 20D

FCC USE ONLY

(23D) FCC CODE 1

(24D) FCC CODE 2

SECTION D - TAXPAYER INFORMATION (REQUIRED)

(25)

PAYER TIN

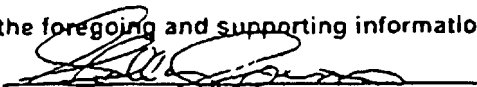
0 8 4 1 3 6 7 5 3 7

(26) COMPLETE THIS BLOCK ONLY IF APPLICANT NAME IN B-11 IS DIFFERENT FROM PAYER NAME IN A-2

APPLICANT TIN

0

(27) CERTIFICATION STATEMENT

I, Shelley Goings, Certify under penalty of perjury that the foregoing and supporting information
(PRINT NAME)
are true and correct to the best of my knowledge, information and belief. SIGNATURE 

SECTION F - CREDIT CARD PAYMENT INFORMATION

(28)

MASTERCARD/VISA ACCOUNT NUMBER

EXPIRATION DATE

MASTERCARD

MONTH YEAR

VISA

I hereby authorize the FCC to charge my VISA or MASTERCARD
for the service(s)/authorization(s) herein described

AUTHORIZED SIGNATURE

DATE

ORIGINAL CHECK HAS MICRO PRINTING IN THE SIGNATURE LINE AND RED CHECK NUMBERS IMAGE THROUGH TO THE BACK OF THE SHEET

KTVH
BEARTOOTH COMMUNICATIONS CO.
PO BOX 6125
HELENA, MONTANA 59601

Pioneer Citizens Bank of NV
Las Vegas NV 89101
Member FDIC
94-106/1212

002819

2819

8/24/2000

\$ *****725.00

PAY Seven Hundred Twenty-Five and 00/100 Dollars

DOLLARS

TO
THE
ORDER
OF

FEDERAL COMMUNICATIONS COMMISS
PO BOX 358165
PITTSBURGH PA 15251-5165

MULTIPLE SIGNATURES REQUIRED

⑈002819⑈ ⑆121201063⑆0034121190⑈

⑈0000072500⑈

17-1-00

08-31-00 0358165 8165563 1 006 28 09

043000281

412-298-1760
CREDIT TO ACCOUNT OF
WITHIN NAMED PAYEE
WITHOUT PREJUDICE, ABSENCE
OF ENDORSEMENT GUARANTEED
MELLON BANK - 3MBC-PGH, PA

SE 01
043000281
PI
59 9-016
1210-0037-4
050051210
V18211302

SE 01
00778
1224
MIDWEST BANK
NEW YORK, NEW YORK
0000 300-4102

8 702 1326 7

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